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ORDINANCE NO. 2022-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO COMPREHENSIVE PLANNING; AMENDING THE ADOPTED TOWN OF WINDERMERE COMPREHENSIVE PLAN, PURSUANT TO CHAPTER 163, FLORIDA STATUTES, TO ADOPT A NEW PROPERTY RIGHTS ELEMENT AND AN AMENDMENT TO THE RECREATION AND OPEN SPACE ELEMENT RELATED TO FERNWOOD PARK; PROVIDING FOR LEGISLATIVE FINDINGS; ADOPTION; CODIFICATION; CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:

Section 1. Legislative Findings. The Town Council of the Town of Windermere (the “Town”) hereby makes and declares the following findings and statements of legislative intent:

WHEREAS, on November 8, 2021, the Town Council held a properly noticed public hearing to transmit the proposed new Property Rights Element and amendment to the Recreation and Open Space Element related to Fernwood Park to the Florida Department of Economic Opportunity, Orange County, and other state and regional agencies for review and comment;

WHEREAS, on December 16, 2021, the Town received a letter from the Florida Department of Economic Opportunity that identified a need for a minor change to language of the new Property Rights Element and had no comments or changes to the Recreation and Open Space Element related to Fernwood Park. No other objections or changes were provided by any other review agency;

WHEREAS, the new Property Rights Element for adoption was revised to resolve the comment from the Florida Department of Economic Opportunity; and

WHEREAS, the Town is required to either adopt, adopt with changes, or not adopt the proposed comprehensive plan amendments within 180 days of December 16, 2021;

Section 2. Adoption. The Town Council adopts and implements as part of the Town’s comprehensive plan, the new Property Rights Element and amendment to the Recreation and Open Space Element related to Fernwood Park provided in Exhibit “A” to this ordinance.

Section 3. Codification. It is the intent of the Town Council that the comprehensive plan amendments shall become and be made part of the comprehensive plan of the Town. Goals, objectives, and policies of the comprehensive plan may be renumbered or reorganized for editorial or codification purposes and such renumbering or reorganization shall not constitute nor be considered a substantive change to the comprehensive plan amendments adopted.

Section 4. Conflicts. In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls to the extent of the conflict.

40 **Section 5. Severability.** The provisions of this Ordinance are declared to be separable and if
41 any section, paragraph, sentence or word of this Ordinance or the application thereto any person
42 or circumstance is held invalid, that invalidity shall not affect other sections or words or
43 applications of this Ordinance. If any part of this Ordinance is found to be preempted or
44 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent
45 permitted by the severance of such preempted or superseded part.

46 **Section 6. Effective Date.** If no challenge is filed by an affected person or the State Land
47 Planning Agency, the comprehensive plan amendments shall take effect 31 days after the State
48 Land Planning Agency notices the Town that the comprehensive plan amendment package is
49 complete. If a challenge is filed by an affected person or the State Land Planning Agency, then
50 the comprehensive plan amendment becomes effective after the issuance of a final order by the
51 State Land Planning Agency or the Administration Commission

52 **ENACTED** this 8th day of February, 2022, at a regular meeting of the Town
53 Council of the Town of Windermere, Florida.

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Town of Windermere, Florida
by: Town Council

by: 
Jim O'Brien, Mayor

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Attest:

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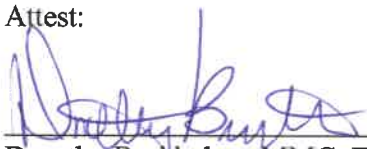

Dorothy Burkhalter, MMC, FCRM
Town Clerk
First reading: January
Second reading: February 8, 2022
Advertised: January 27, 2022



Exhibit "A"

New Property Rights Element

Amended Recreation and Open Space Element

TOWN OF WINDERMERE
COMPREHENSIVE PLAN
GOALS, OBJECTIVES, POLICIES

CHAPTER 11

PROPERTY RIGHTS ELEMENT

PROPERTY RIGHTS GOALS, OBJECTIVES AND POLICIES

GOAL 1 The Town of Windermere will make local decisions respecting private property rights.

OBJECTIVE 1 The Town of Windermere will respect judicially acknowledged and constitutionally protected private property rights.

POLICY 1.1 The Town will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

POLICY 1.2 The Town will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

POLICY 1.3 The Town will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

POLICY 1.4 The Town will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

TOWN OF WINDERMERE
COMPREHENSIVE PLAN
GOALS, OBJECTIVES, POLICIES

CHAPTER 6

RECREATION AND OPEN SPACE

RECREATION GOALS, OBJECTIVES AND POLICIES

GOAL 1: Ensure maintenance and improvement of existing public parks, recreation facilities and open space areas to satisfy the health, safety, and welfare needs of the Town's citizens and their guests and enhance the total quality of life within the Town, in an efficient and appropriate manner.

OBJECTIVE 1.1: *Beaches, Parks, and Recreational Facilities.* The Town shall continue to require that all beaches, parks and recreation facilities are available to all residents and their guests with emphasis on accessibility and availability to the handicapped.

POLICY 1.1.1: All parks and recreational facilities shall be maintained at their existing level of access or improved, available and accessible to all residents and their guests.

POLICY 1.1.2: Barrier-free access shall be provided at all existing and new recreational facilities.

POLICY 1.1.3: Accessibility to recreational facilities shall be provided without the destruction of the unique character and quality of these areas.

POLICY 1.1.4: The Town shall clearly identify, designate and provide sign identification of all public recreational facilities.

POLICY 1.1.5: The Future Land Use designation of Recreation does not supersede (i) the Lake Bessie Consent Final Judgment, dated June 15, 2006, and recorded in the Public Records of Orange County, OR BK 08945 PG 3279, or (ii) the Lake Down Consent Final Judgment, dated March 23, 2006, recorded in the Public Records of Orange County, OR BK 08573 PG 1393. To the extent of conflicts or inconsistencies, the Consent Final Judgments prevail.

POLICY 1.1.6 Fernwood Park shall only be utilized as a boat ramp with related activities, for Town residents only.

OBJECTIVE 1.2: *Cooperation with Public Agencies and Private Enterprise.* The Town shall cooperate with public agencies as well as private enterprise to fund quality improvements and enhancements to the existing public park and recreational facilities.

POLICY 1.2.1: The Town shall coordinate public and private efforts to provide and improve and enhance public recreational opportunities for the Town's residents through its Parks and Recreation Committee.

POLICY 1.2.2: The Town shall continue to work with and assist the Windermere Rotary Club and other private individuals and groups to assist in providing adequate funding for new facilities as well as maintenance and improvement of present park and recreational facilities.

POLICY 1.2.3: Adequate operating budgets shall be provided for all parks and recreational facilities.

POLICY 1.2.4: The Town shall actively solicit grants from public and private agencies, donations of money, facilities or services for improvement enhancement and maintenance of existing public recreational facilities.

POLICY 1.2.5: Adequate capital expenditures shall be provided for the improvement and expansion of existing public recreational facilities.

POLICY 1.2.6: The Town shall maintain incentives in the Land Development Regulations for developers to provide recreation facilities in their developments and recognize that private parks, open space and recreational areas within a development are an integral part of the recreational facilities provided to Town residents.

POLICY 1.2.7: The Town shall encourage the use of innovative site design and development techniques in order to maximize the provision of

usable recreational facilities and open space areas at a minimum cost.

POLICY 1.2.8: The Town shall review recreational funding needs as part of the Town's annual budgetary process.

POLICY 1.2.9: Should additional parks be needed or acquired, emphasis shall be placed on developing activity-based facilities, but only at a size and scope consistent with surrounding areas.

OBJECTIVE 1.3: *Level of Service.* The Town shall continue to provide adequate recreational opportunities for all residents and their guests to meet the Level of Service Standards.

POLICY 1.3.1: The Town establishes the following peak Level of Service Standards as guidance to meet existing and future demands for parks and recreation facilities.

RECREATION LEVELS OF SERVICE

STANDARDS FACILITY LEVEL OF SERVICE

Neighborhood Park	1 per 5000 population
Park Acreage	2.5 acres per 1000 persons
Tennis Courts	1 per 1000 persons
Boat Ramp	1 per 4300 persons
Bicycle Paths (Miles)	1 per 1000 persons

POLICY 1.3.2: The use of land within the Town's boundaries for a facility described in paragraphs (a) and (b) is declared to be an inappropriate use of land, water, and other resources within the Town, contrary to the public interest and the interests of the Town and its citizens, and contrary to the safety, comfort, good order, convenience, and general welfare of the Town and its citizens. Therefore, development undertaken, and action taken by a governmental agency to approve a development order for development to be undertaken, in connection with a facility described in paragraphs (a) and (b) is inconsistent with this *Comprehensive Plan*:

- a) the acquisition, establishment, construction, and/or operation of a park or recreational facility, whether for usual and customary activity-based park uses (such as picnicking, sports, camping, hiking, fishing, swimming, skiing, canoeing, kayaking, boat-launch facilities, boat-dock facilities, beach and shoreline access and activities, etc.) or other recreational uses, where the park or recreational facility is open to the public (regardless of whether the facility is publicly or privately owned or managed) and the facility is larger in scope and intensity than a neighborhood park;
- b) the conversion of a facility described in paragraph (a) from a private facility, not open to the public (regardless of whether the private facility is publicly or privately owned or managed), to a facility open to the public.

The land uses, land-use intensities, capacity, size, timing, and other aspects of development of a facility described in paragraph (a) or (b) are declared to be (i) incompatible with and contrary to the objectives, policies, land uses, and densities and intensities in this *Comprehensive Plan*, (ii) incompatible with and contrary to other criteria enumerated by the Town in this *Plan* and in its Land Development Regulations, and therefore (iii) inconsistent with this *Comprehensive Plan*.

POLICY 1.3.3: From time to time, the Town shall review and revise its regulations for newly annexed areas so as to address open space definitions, signage, landscaping, buffering, greenspace, and requirements for amounts needed.

POLICY 1.3.4: Conservation areas located within the Town may be so designated and use for active and/or passive recreational uses only where it can be demonstrated that such uses will not have any significant adverse transportation or environmental impact and are compatible with other surrounding land uses.

POLICY 1.3.5: Natural reservations, as well as open spaces, are hereby defined as any land or water surface that affords unobstructed physical movement and is relatively free of manmade structural mass,

shall be provided for their aesthetic, health, environmental and economic benefits in any new development.

POLICY 1.3.6: Bikepaths as required and provided are discussed in the *Transportation Element*, Objective 1.6.

OBJECTIVE 1.4: *Safety of Public Parks and Recreation Facilities.* All public parks and recreation facilities shall be made safe and kept safe so that the number of accidents will be minimized.

POLICY 1.4.1: Strict safety rules and procedures shall be posted at each facility by appropriate signage.

POLICY 1.4.2: Proper lighting shall be provided or the facility shall be closed at sunset.

POLICY 1.4.3: Appropriate rails or fences shall be installed at each existing and/or planned public recreational facility.

POLICY 1.4.4: Children's play areas shall be at least 50 feet from streets, parking areas, and vehicular access points or shall be separated by a fence.

POLICY 1.4.5: Efficient maintenance activities shall be conducted in all recreational facilities so as to maintain them in an accident-free condition and to correct or improve existing deficiencies.

POLICY 1.4.6: Regular monitoring of each facility shall be maintained during open hours.

OBJECTIVE 1.5: *Passive Recreation and Conservation Uses.* Open spaces shall be acquired and maintained by the Town or private entities, so as to provide undeveloped land for passive recreation and/or conservation uses as well as to improve the attractiveness of the Town.

POLICY 1.5.1: Zoning regulations shall be reviewed from time to time to ensure that adequate buffer zones are required around parks, open spaces, recreation areas, and conservation areas so as to protect them from adverse effects of encroaching urbanization.

POLICY 1.5.2: Town regulations shall include specific open space definitions and standards.